

REMARKS

Applicants have considered the outstanding official action. It is respectfully submitted that the claims are directed to patentable subject matter and in condition for allowance as set forth below.

Claim 22 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite based on certain phrasing at lines 5-6 as set forth at page 2 of the official action.

Claim 22 has been amended at lines 5-6 so as to read "distance between said fixed longitudinal element and said flexible member in a plan projection being adjustable to handle products of variable diameters when received and fed along said path". Support is present in the specification at page 5, lines 13-15. Applicants submit that such is definite within the meaning of 35 U.S.C. §112, second paragraph. Withdrawal of the §112 rejection is requested.

The outstanding rejections based on art are as follows:

- (1) Claims 1-3, 5-7, 22 and 24 under 35 U.S.C. §102(b) over U.S. Patent No. 811,332 (Rufli); and
- (2) Claims 8, 9 and 17-20 under 35 U.S.C. §103(a) over Rufli.

Claims 1, 24 and 25 are the pending independent claims. Claim 25 is added and is the same as claim 1 except for certain added clarifying language as set forth below.

It is initially noted with reference to the Examiner's response at page 9 of the official action that to the extent applicants' prior response referred to the differences in purpose and function of the claimed device as compared to that of the device described in the sole applied reference Rufli, this was for the purpose of emphasizing the differences in structure between the claimed device of applicants and the device in Rufli. Due to the differences in structure, the device described in Rufli can not perform the operation of the claimed device. In view of the continued rejection of the claims, clarifying amendments have been made to the claims to further emphasize the differences in structure over the applied art. While applicants believe the claims as previously pending are distinct in structure over the applied art, the current amendments are being made to move the prosecution forward to allowance.

The Examiner rejects claim 24 asserting that Rufli is capable of causing trimmings to overturn due to an overturning torque applied thereon by the flexible member (asserted by the Examiner to be component 27) and the fixed

longitudinal element (asserted by the Examiner to be component 11). Applicants respectfully submit that this is incorrect. The shape of the chains or belt feed 27 of Rufli, having push lugs 28 projecting downwards and engaging the back surface of the wood planks Z is clearly designed to avoid any overturning of the planks being advanced. Since the planks Z are pushed from behind they cannot overturn. If a trim were engaged by the same belt feed 27, the trim would be pushed from behind by push lugs 28 and would advance without being overturned. Thus, claim 24 is submitted by applicants to be both novel and non-obvious as previously pending. However, in view of the continued rejection of claim 24 and to move the prosecution forward, a clarifying amendment has been made to claim 24 setting forth that the flexible member contacts the trimmings and the products on a top surface thereof and the fixed longitudinal element contacts the same trimmings and products on another surface thereof opposite the top surface. This is clearly different from Rufli, where the push lugs of the belt feed 27 touches the planks Z on the back surface thereof and not on the top surface. This limitation reflects a clearly structural difference since it involves the shape of the flexible member and the distance/position thereof with respect to the fixed element.

Further, independent claims 1 and 21 have been amended, and claim 25 includes, the clarification that the pusher is constructed and arranged to simultaneously feed or advance a series of products and trimmings, including a lead trim and a trailing trim, simultaneously while aligned in a row parallel to a direction of advancement between the flexible member and the fixed longitudinal member. This cannot be achieved in the device of Rufli due to structural differences, namely, Rufli teaches individual push lugs 16 set at a reduced distance such that only a single plank can be arranged between two successive push lugs 16.

Applicants have added independent claim 25, which is the same as claim 1 except that it sets forth the additional limitation of a cutter arranged upstream, in relation to the direction of advancement, of the fixed longitudinal element and the flexible member and that the cutter is constructed and arranged to provide the series of products, each series of products including a lead trim and a trailing trim, wherein the pusher is constructed and arranged to advance the series of products, lead trim and trail trim simultaneously while aligned in a row parallel to the direction of advancement towards and between said fixed longitudinal element and said movable flexible member.

Rufli discloses a cutter 3, which cuts a plank into individual blocks and side scraps. Therefore, claim 25 does not add unconsidered limitations, but rather clarifies the position in the claimed device where the cutter and the pusher are arranged and how they are structurally related or co-act to further distinguish the claimed device over the device of Rufli wherein the push lug and the cutter are arranged differently in relation to each other to perform a different operation. It is noted, in this respect, that claim 1 (upon which claim 25 is based), both prior to and after amendment, contains language which provides this distinction since claim 1 states that "the pusher feeds the products and the trimmings while aligned in said row parallel to the direction of advancement between said flexible member and said fixed longitudinal element". This limitation cannot be met by Rufli for the reason set forth above, i.e., there is no room between adjacent push lugs 16 of Rufli to arrange a series of products and trimmings.

Claim 22, which has been amended for clarity to overcome the §112 rejection, is also submitted to be allowable. Claim 22 is directed to the embodiment shown in Figure 7. As seen from Figure 7, the shape, position and dimension of the pusher 15' is such that it can enter between the flexible member 3' and the fixed element 13',

the latter being arranged (as required by claim 22) on opposite sides of a median vertical plane (the plane of symmetry of the products R). In Rufli, this arrangement is not possible because the push lugs 16 are exactly aligned with the upper chains 27 and the feed deck 11 and strips 33 underneath the chains 27. As shown in Figure 3 of Rufli, each chain 27 is vertically aligned with the fixed lower supporting elements 11 and 33. These supporting elements are not spaced apart from one another, as clearly evident when viewed from the top (Figure 1). The push lug 16 being aligned with the chain 27 cannot follow a trajectory which (in a plan view) is arranged between the chain 27 and the supporting elements 11 and 33.

Accordingly, Rufli does not teach each and every element of the claimed device and, thus, does not anticipate the claims within the meaning of 35 U.S.C. §102(b).

Further, Rufli does not suggest modification of the device described therein so as to achieve the claimed device and, therefore, does not render the claimed device obvious within the meaning of 35 U.S.C. §103(a). Withdrawal of the §102 and §103 rejections based on Rufli is therefore requested.

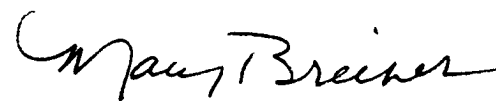
Reconsideration and allowance of the claims is respectfully urged.

6433/USSN 10/516,820
Group Art Unit 3724

Respectfully submitted,

ANGELO BENVENUTI ET AL

By



Mary J. Breiner, Attorney
Registration No. 33,161
BREINER & BREINER, L.L.C.
P.O. Box 320160
Alexandria, Virginia 22320-0160

Telephone (703) 684-6885